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09/918,244	07/30/2001	Anil K. Kumar	ITL0599US (P11740)	2277
21906 7590 03/11/2010 TROP, PRUNER & HU, P.C. 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			EXAMINER GREY, CHRISTOPHER P	
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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* ANIL K. KUMAR

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Appeal 2009-001112  
Application 09/918,244  
Technology Center 2400

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Decided: March 11, 2010

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Before KENNETH W. HAIRSTON, JOSEPH F. RUGGIERO  
and JOHN A. JEFFERY, *Administrative Patent Judges*.  
HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134 from a final rejection of claims 1 to 16. We have jurisdiction under 35 U.S.C. § 6(b).

We will reverse the indefiniteness rejection of claims 1 to 4 and 6, reverse the anticipation rejection of claims 1, 2, 5, 6, 9 to 11, and 14, and reverse the obviousness rejections of claims 3, 4, 7, 8, 12, 13, 15, and 16.

Appellant has invented a packet based system for a cellular telephone network that uses idle, ready, and standby mobility management state information. When the mobility management state is idle, all packet data service application software is automatically closed to increase the battery life of the cellular telephone (Fig. 2; Spec. 4 to 6).

Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A method comprising:

automatically closing packet data service application software if a mobility management state is idle.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Walker	US 5,771,390	June 23, 1998
Tuomainen	US 2001/0015963 A1	Aug. 23, 2001 (filed Dec. 5, 2000)
Hosain	US 7,092,696 B1	Aug. 15, 2006 (filed Oct. 4, 1999)

The Examiner rejected claims 1 to 4 and 6 under the second paragraph of 35 U.S.C. § 112 for indefiniteness.

The Examiner rejected claims 1, 2, 5, 6, 9 to 11, and 14 under 35 U.S.C. § 102(e) based upon the teachings of Hosain.

The Examiner rejected claims 3, 7, and 15 under 35 U.S.C. § 103(a) based upon the teachings of Hosain and Walker.

The Examiner rejected claims 4, 8, 12, 13, and 16 under 35 U.S.C. § 103(a) based upon the teachings of Hosain and Tuomainen.

*Indefiniteness*

The Examiner indicates (Final Rej. 2) that “[c]laim 1 is vague and indefinite because it is not clear the application software and mobility management state of what device is claimed.” Appellant argues (App. Br. 10) that “[t]here is no requirement that the method claim say that there is a device, and that the device has active packet data service applications.”

*Anticipation*

With respect to claims 1, 5, and 9, the Examiner indicates (Final Rej. 4) that “Hosain discloses automatically closing packet data service application software (Col 14 lines 21-27) if the mobility management state is idle (Col 8 lines 5-9).” Appellant argues:

At column 8, lines 5-9, the reference suggests that when the mobility management node is in the idle state, mobility management is turned off. But that does not mean that a packet data service application is turned off. There is simply no mention whatsoever of turning off a packet service data application. Just because mobility management is idle or, according to the reference, turned off, does not have anything to do in the cited reference with closing a packet data service application.

(App. Br. 12).

*Obviousness*

With respect to claims 3, 4, 7, 8, 12, 13, 15, and 16, Appellant argues (App. Br. 12) that the applied references do not teach automatically closing packet data service application software if a mobility management state is idle.

## ISSUES

### *Indefiniteness*

Did the Examiner err in finding that method claim 1 is indefinite because it does not recite a device on which to perform the method?

### *Anticipation*

Did the Examiner err by finding that Hosain discloses automatically closing packet data service application software if the mobility management state is idle?

### *Obviousness*

Did the Examiner err by finding that the applied references teach or suggest automatically closing packet data service application software if a mobility management state idle?

## FINDINGS OF FACT (FF)

1. Hosain recognizes that a service provider can bill a cellular mobile node subscriber for usage of a cellular packet-based network based on a data packet count (col. 2, ll. 22-60; col. 3, ll. 47-52; col. 9, ll. 1-6). An accounting unit 70 in Hosain provides information of mobility management resources in a field referred to as a usage of mobility management field 74 (Fig. 3; col. 7, ll. 20-66). The accounting unit 70 also includes a data packet count field 80 that records a count of the total number of data units that are exchanged between the cellular mobile node and the service provider (col. 8, ll. 57-60). According to Hosain:

The mobile node may be in one of three mobility management states: idle, standby, and active. In

standby or active state, mobility management is available. However, when the mobile node is in an idle state, mobility management is turned off. (Col. 8, ll. 5-9).

2. The diagram in Figure 3 of Walker illustrates operation of power management software cascading from a full-on state to a standby state 306 and then to a suspend state 320 (col. 3, ll. 26-29).

3. Tuomainen describes a discontinuous reception mode that switches “all possible functional blocks connected with the radio interface off when they are not needed” (¶ 0025).

## PRINCIPLES OF LAW

### *Indefiniteness*

The fact that a claim does not contain further limiting language is a matter of breadth, not indefiniteness. *See In re Johnson*, 558 F.2d 1008, 1016 n.17 (CCPA 1977).

### *Anticipation*

Anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim. *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986).

### *Obviousness*

The Examiner bears the initial burden of presenting a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

## ANALYSIS

### *Indefiniteness*

We agree with the Examiner that method claim 1 on appeal is very broad without the recital of a device on which to perform the method, but we are not aware of any requirement that a method claim has to be limited to the device on which it is performed. Thus, the indefiniteness rejection of claims 1 to 4 and 6 is reversed because the breadth of a claim is not equated to indefiniteness of the claim. *See Johnson*, 558 F.2d at 1016 n.17.

### *Anticipation*

We agree with Appellant's argument (App. Br. 12) that the mobile node idle state and the mobility management off state in Hosain (FF 1) have nothing to do with automatically closing packet data service application software if a mobility management state is idle. Accordingly, the anticipation rejection of claims 1, 2, 5, 6, 9 to 11, and 14 is reversed because Hosain is silent as to closing packet data service application software if a mobility management state is idle. *See King*, 801 F.2d at 1326.

### *Obviousness*

Turning first to claims 3, 7, and 15, the obviousness rejection of these claims is reversed because we agree with Appellant's argument (App. Br. 12) that neither Hosain nor Walker (FF 2) describes the closing of packet data service application software.

Turning next to claims 4, 8, 12, 13, and 16, we agree with Appellant's argument (App. Br. 12) that neither Hosain nor Tuomainen (FF 3) describes the closing of packet data service application software.

Appellant's arguments throughout the briefs convince us of error in the Examiner's positions in the rejections of 3, 4, 7, 8, 12, 13, 15, and 16. *Oetiker*, 977 F.2d at 1445. Accordingly, the obviousness rejections are reversed.

## CONCLUSIONS OF LAW

### *Indefiniteness*

The Examiner erred by finding that method claim 1 is indefinite because it does not recite a device on which to perform the method.

### *Anticipation*

The Examiner erred by finding that Hosain discloses automatically closing packet data service application software if the mobility management state is idle.

### *Obviousness*

The Examiner erred by finding that the applied references teach or suggest automatically closing packet data service application software if a mobility management state is idle.



ORDER

The indefiniteness rejection of claims 1 to 4 and 6 is reversed, the anticipation rejection of claims 1, 2, 5, 6, 9 to 11, and 14 is reversed, and the obviousness rejections of claims 3, 4, 7, 8, 12, 13, 15, and 16 are reversed.

REVERSED

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